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GREENBERG TRAURIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			YACOB, SISAY	
			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,975

Applicant(s)

CLERCQ ET AL.

Examiner

Sisay Yacob

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25, 27-29 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 27-29 and 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1 This communication is in response to applicant's amendment to first non-final office action, which was filed December 12, 2005.

2 Amendments and arguments to claims 1-40 have been entered and made of record in the application of Clercq et al., "Remote control with selective key illumination" filed on June 25, 2003.

3 The application of Clercq et al., "Remote control with selective key illumination" filed on June 25, 2003 been examined.

Claims 1, 18, 25, 27-29, 31, 32, 35, 37, 38 and 40 are amended.

Claims 26 and 30 are canceled.

Claims 2-17, 19-24, 33, 34, 36 and 39 are the same as originally filed

Claims 1-25, 27-29 and 31-40 are pending.

Response to Arguments

4 Applicant's amendment and arguments to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts to overcome the rejection of said claims under 35 U.S.C 103(a) as discussed below.

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5 Applicant's arguments with respect to claim 1-25 have been considered but are not persuasive in view of the rejection cited below in their respective rejection section. The prior arts presented in the earlier office action has been used herein with further explanation, in account of the argument presented by the applicant, to further address applicant concern and to clearly show how the limitation of the claims are met by the same.

6 On page 10, Par. 4, Page 11, Par. 1 and all subsequent applicant's arguments that the prior art fails to suggest "a remote control that receives a transmission from an external device, e.g., an entertainment center, and which responds to the receipt of the transmission from the external device to activate a means for indicating, e.g., an illumination device, that is associated with a button of the remote control to indicate, e.g., to modify the appearance associated with the button from a first displayed state to a second displayed state and/or in accordance with data contained in the transmission, to a user that the button may now be activated to transmit data from the remote control to an external target device and/or that an event has occurred. In contrast to that which is claimed, col. 14, lines 8-15 of Goldstein discloses a remote control which includes an indicator button 101 where the button 101 is activated by a user to initiate the retrieval of data and where the button 101 is illuminated only after the remote control determines that a full message has been received to thereby provide assurances to the user that the data has been completely retrieved by the remote control. Thus, it will be appreciated that the button 101 of Goldstein is not

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illuminated in accordance with any instructions received in a data transmission from a source external to the remote control. It will be further appreciated that the button 101 of Goldstein is not illuminated to indicate to a user that the user may now activate the button 101 to transmit any signal to a target device as is claimed, i.e., the remote control enables the button 101 only during such time as the indicator is active. Rather, in Goldstein, the button 101 is clearly enabled prior to the button 101 being illuminated whereby the button 101 may be activated to initiate the retrieval of data in the first instance", is not persuasive.

7 Applicant's arguments are narrower than what is actually claimed in the claims. Applicant's argued operation is not claimed, so examiner can't address these arguments as it not found in any of the claims. The claims fail to indicate when, who and what initiate the transmission to the remote control. Given this any operation of a remote control and an external device that causes the external device to transmit to a remote control would meet the limitation of the claimed invention.

Specification

8 The abstract of the disclosure is objected to because of the use of the phrase " the invention". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

9 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10 Claim 1-8, 11- 13, 15, 17-25, 27-29, 31-34, 37, 38 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent of Goldstein (5,410,326).

11 As to claim 1, Goldstein discloses a remote control (Col. 5, lines 45-47, item 5 of figure 1) comprising a button having an associated means for indicating that the button may be operated to interact with interactive program content (Item 101 of figure 11), a receiving circuit for accepting a transmission received from a source external to the remote control (Col. 7, lines 56-68; Col. 8, lines 1-18), a controlling circuit linked to the receiving circuit and the means for indicating

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where the controlling circuit functions (Col. 9, lines 1-14) to activate the means for indicating (Item 89 of figure 10 and 11) in response to receipt of the transmission by the receiving circuit (Col. 11, lines 11-26), and a transmission circuit for transmitting a signal to a target external to the remote control in response to activation of the button wherein the controlling circuit allows transmission of the signal to the target external to the remote control in response to activation of the button only when the means for indicating is activated (Col. 4, lines 11-26, Col. 11, lines 26-68).

6 As to claim 2, the remote control features as set forth above in claim 1, further, Goldstein discloses the button is a hard button (Col. 11, lines 27-66; Col. 14, lines 6-20; Item 80 of figure 4; Item 101 of figure 11).

7 As to claim 3, the remote control features as set forth above in claim 1, further, Goldstein discloses the button is a soft button (Col. 3, lines 45-51; Col. 4, lines 1-5).

8 As to claim 4, the remote control features as set forth above in claim 1, further, Goldstein discloses the means for indicating comprises a visual means (Col. 14, lines 1-8).

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9 As to claim 5, the remote control features as set forth above in claim 4, further, Goldstein discloses the visual means comprises a means for selectively modifying the appearance of the button (Col. 14, lines 8-15).

10 As to claim 6, the remote control features as set forth above in claim 5, further, Goldstein discloses selectively modifying the appearance of the button comprises animating the button, illuminating the button, or changing the color of the button (Col. 14, lines 6-8, 11-14).

11 As to claim 7, the remote control features as set forth above in claim 6, further, Goldstein discloses selectively modifying the appearance of the button is performed intermittently (Col. 14, lines 8-14)

12 As to claim 8, the remote control features as set forth above in claim 1, further, Goldstein discloses a label associated with the button indicating the nature of the functionality provided by the button (Col. 14, lines 15-17; Item 101 of figure 11).

13 As to claim 11, the remote control features as set forth above in claim 8, further, Goldstein discloses the label comprises alphanumeric characters (See figure 3 and 3A).

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14 As to claim 12, the remote control features as set forth above in claim 8, further, Goldstein discloses the label comprises a graphical symbol (See figure 3, 3A and 3B).

15 As to claim 13, the remote control features as set forth above in claim 1, further, Goldstein discloses the receiving circuit comprises an IR receiver (Col. 15, lines 49-68; Item 26 of figures 12 and 13).

16 As to claim 15, the remote control features as set forth above in claim 1, further, Goldstein discloses the transmitting circuit comprises an IR transmitter (Col. 7, lines 50-55; Item 29 of figure 1A).

17 As to claim 17, the remote control features as set forth above in claim 1, further, Goldstein discloses the signal comprises data for use in making a purchase, answering questions, or initiating a multimedia program (Col. 4, lines 12-30).

18 As to claim 18, Goldstein discloses a method for controlling operation of a remote control having a button and an associated means for indicating that the button may be operated to interact with interactive program content (Col. 3, lines 45-68; Col. 4, lines 1-5) comprising activating the means for indicating in response to a transmission received by the remote control from a source external to the remote control (Col. 7, lines 56-68; Col. 8, lines 1-18), and allowing the

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remote control to transmit a signal in response to activation of the button only when the means for indicating is activated (Col. 11, lines 15-40; Col. 13, lines 58-68; Col. 14, lines 1-55).

19 As to claim 19, the method features as set forth above in claim 18, further, Goldstein discloses the button is a hard button (Item 101 of figure 11).

20 As to claim 20, the method features as set forth above in claim 18, further, Goldstein discloses the button is a soft button (Col. 3, lines 45-51; Col. 4, lines 1-5).

21 As to claim 21, the method features as set forth above in claim 18, further, Goldstein discloses the means for indicating comprises a visual means (Col. 14, lines 1-8).

22 As to claim 22, the method features as set forth above in claim 21, further, Goldstein discloses selectively activating the visual means to modifying the appearance of the button (Col. 14, lines 8-15).

23 As to claim 23, the method features as set forth above in claim 22, further, Goldstein discloses selectively activating the visual means to modifying the appearance of the button comprises animating the button, illuminating the button, or changing the color of the button (Col. 14, lines 6-8, 11-14).

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24 As to claim 24, the method features as set forth above in claim 22, further, Goldstein discloses selectively activating the visual means is performed intermittently (Col. 14, lines 8-14).

25 As to claim 25, Goldstein discloses a method for signaling a user to provide a response to a prompt via a remote control (Col. 3, lines 14-28), the method comprising the steps of displaying the prompt to the user via an entertainment system receiving at the remote control a transmission from the entertainment center (Col. 7, lines 56-68; Col. 8, lines 1-18), the transmission including data used to modify the appearance of at least one of a plurality of buttons on the remote control, and modifying the appearance of the at least one of a plurality of buttons on the remote control in accordance with the data in the transmission received from the entertainment center to indicate to the user that a response may be made to the prompt through operation of the button (Col. 14, lines 3-20).

27 As to claim 27, the method features as set forth above claim 25, further, Goldstein discloses wherein modifying the appearance of the button comprises animating the button, illuminating the button, or changing the color of the button (Col. 14, lines 6-14).

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28 As to claim 28, the method features as set forth above claim 25, further, Goldstein discloses wherein modifying the appearance of the button is performed intermittently (Col. 14, lines 8-14).

29 As to claim 29, Goldstein discloses a system for facilitating and encouraging user interaction with program content (Col. 3, lines 45-57) the system comprising an entertainment system for providing and displaying the program content (Col. 4, lines 27-34), including a prompt which requests a response from the user and for transmitting at least one instruction to the remote control (Col. 11, lines 27-36), and a remote control having at least one button (Col. 11, lines 41-43; Col. 12, lines 48-53), the remote control being responsive to the instruction for modifying the appearance of the at least one button in accordance with the instruction from a first displayed state to a second displayed state to indicate to the user that a response may be made to the prompt via operation of the at least one button while the appearance of the at least one button is in the second state (Col. 11, lines 31-40; Col. 14, lines 3-20).

31 As to claim 31, the system features as set forth above in claim 29, further, Goldstein discloses wherein the remote control has programming for selectively modifying the appearance of the at least one button by animating the button, illuminating the button, or changing the color of the button (Col. 11, lines 31-40; Col. 14, lines 6-14).

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32 As to claim 32, the system features as set forth above in claim 29, further, Goldstein discloses selectively modifying the appearance of the at least one button is performed intermittently (Col. 3, lines 67-68; Col. 4, lines 1-5; Col. 11, lines 31-40; Col. 14, lines 8-14).

33 As to claim 33, the system features as set forth above in claim 30, further, Goldstein discloses the instruction comprises a data signal including at least a control command identifier for indicating that the instruction is a button based command (Col. 3, lines 67-68; Col. 4, lines 1-5; Col. 14, lines 44-50).

34 As to claim 34, the system features as set forth above in claim 33, further, Goldstein discloses the button based command comprises data indicative of a button mode, button color, and button on time (Col. 4, lines 30-40).

35 As to claim 37, the system features as set forth above in claim 29, further, Goldstein discloses a first button and a second button are included on the remote control and the instruction includes a first button based command for modifying the appearance of the first button in accordance with the first button based command from a first displayed state to a second displayed state and a second button based command for modifying the appearance of the second button in accordance with the second button based command from a first displayed state to a second displayed state (Col. 10, lines 3-39).

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36 As to claim 38, the system features as set forth above in claim 37, further, Goldstein discloses the first button based command functions to modify the appearance of the first button to indicate to the user via the second display state of the first button that a first response to the prompt may be made via operation of the first button (Col. 9, lines 31-38, 50-55), and the second button based command functions to modify the appearance of the second button to indicate to the user via the second display state of the second button that a second, alternate response to the prompt may be made via operation of the second button (Col. 10, lines 17-30).

37 As to claim 40, Goldstein discloses a method for notifying a user of an event via a remote control (Col. 3, lines 45-51), the method comprising the steps of sending at least one instruction from an entertainment system to the remote control, the at least one instruction specifying at least one of a plurality of buttons on the remote control (Col. 3, lines 38-44), illuminating an element associated with the at least one of the plurality of buttons on the remote control specified in the at least one instruction to notify the user of an event (Col. 3, lines 67-68; Col. 4, lines 1-5; Col. 11, lines 31-40; Col. 14, lines 8-14)

Rejections - 35 USC § 103

38 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

39 Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US patent of Goldstein.

40 As to claim 9, the remote control features as set forth above in claim 8, except, Goldstein does not expressly disclose the label resides on the button. However, Goldstein discloses interactive soft buttons that have the label resides

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on the buttons (Col. 10, lines 64-68; Col. 11, lines 1-26; Items 64 and 79 of figure 3A).

It would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify the remote control of Goldstein, in order to have a button with a label associated with the button indicating the nature of the functionality provided by the button, because Goldstein discloses a remote control that has interactive buttons with the label residing on the buttons and a selectively illuminated button to indicate the status of the button interaction, so one of ordinary skill in the art recognize having the label residing on any or all of the interactive buttons facilitate ease of operation by the user.

41 Claims 10, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of the US patent of Goldstein.

42 As to claim 10, the remote control features as set forth above in claim 8, except, Goldstein does not expressly discloses the label resides adjacent the button. However, Goldstein discloses interactive soft buttons that have the label resides adjacent the buttons (Col. 10, lines 51-52; Item 75 of figure 3).

It would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify the remote control of Goldstein, in order to have a button with a label associated with the button indicating the nature of the functionality provided by the button, because Goldstein discloses a remote control that has

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interactive buttons with the label residing adjacent the buttons and a selectively illuminated button to indicate the status of the button interaction, so one of ordinary skill in the art recognize having the label residing adjacent any or all of the interactive buttons facilitate ease of operation by the user.

43 As to claim 14, the remote control features as set forth above in claim 1, except, Goldstein does not expressly disclose the receiving circuit that comprises an RF receiver, however, applicant's admitted prior art discloses that RF transceivers are commonly used in the art of remote control (Page 1, lines 14-21).

It would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify the remote control with IR receiver circuit of Goldstein, to replace the IR receiving circuit by RF receiver circuit, as it taught by applicant's admitted prior art, in order to have a remote control with RF receiver circuit, because Goldstein discloses an interactive remote control with selectively illuminated button that employs an IR receiver circuit and Applicant's admitted prior art discloses a RF, IR or both RF and IR transceiver circuits are used in the remote control art, so one of ordinary skill in the art recognize having RF, IR or both receiver circuit commonly used in the remote control art.

44 As to claim 16, the remote control features as set forth above in claim 1, except, Goldstein does not expressly discloses the transmitting circuit comprises an RF transmitter, however, applicant's admitted prior art discloses that RF

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transceivers are commonly used in the art of remote control (Page 1, lines 14-21).

It would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify the remote control with IR transmitter circuit of Goldstein, to replace the IR transmitting circuit by RF transmitter circuit, as it taught by applicant's admitted prior art, in order to have a remote control with RF transmitter circuit, because Goldstein discloses an interactive remote control with selectively illuminated button that employs an IR transmitter circuit and Applicant's admitted prior art discloses a RF, IR or both RF and IR transceivers circuits are used in the remote control art, so one of ordinary skill in the art recognize having RF, IR or both transmitter circuit commonly used in the remote control art.

45 Claims 35, 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent of Goldstein in view of US patent of Evans et al., (4,825,200).

46 As to claim 35, the system features as set forth above in claim 33, further, Goldstein discloses a control command identifier, however, Goldstein does not expressly discloses the command for restricting operation of the remote control such that only the at least one button indicated by the instruction may be operated. In the same filed of endeavor, a reconfigurable remote control transmitter, Evans et al., discloses a remote control system that is a restricting

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operation until a response is entered ("wait delay") when the remote control display prompt the user for a response and respond by pressing a desired function button (Col. 10, lines 64-68).

It would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify the remote control system with a control command identifier of Goldstein, by incorporating a remote control display prompt for a response by applying a restricting operation feature, as taught by Evans et al., in order to have a remote control system with a control command identifier that includes the command for restricting operation of the remote control such that only the at least one button indicated by the instruction may be operated, because Goldstein discloses an interactive remote control system with selectively illuminated button that employs with a control command identifier for a user to response to a prompt that is send from the controlled device and Evans et al., discloses a remote control system that has a feature, which restricts operation until a response is entered, so one of ordinary skill in the art recognize having a control command identifier that includes a command for restricting operation of the remote control such that only the button indicated by the instruction may be operated is a desired feature to increase consumer interaction and favorable response products advertisements and sales.

47 As to claim 36, the system features as set forth above in claim 35, further, Evans et al., discloses the command for restricting operation is activated for a preset time period (Col. 10, lines 21-28).

48 As to claim 39, the system features as set forth above in claim 38, further, Evans et al., discloses a first response is an affirmative response, and a second response is a negative response (Col. 10, lines 66-68).

Conclusion

49 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

50 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sisay Yacob whose telephone number is (571) 272-8562. The examiner can normally be reached on Monday through Friday 8:00 AM - 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sisay Yacob

3/1/2006

S-Y.

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